

Before the
Federal Communications Commission
Washington, D.C. 20554

DEC 5 8 16 AM '96

In the Matter of

DISPATCHED BY

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Ada, Newcastle and Watonga,
Oklahoma)

MM Docket No. 95-175
RM-8707

REPORT AND ORDER
(Proceeding Terminated)

Adopted: November 22, 1996

Released: November 29, 1996

By the Chief, Allocations Branch:

1. At the request of Tyler Broadcasting Corporation ("petitioner"), licensee of Station KTLS, Ada, Oklahoma,¹ the Commission has before it the Notice of Proposed Rule Making and Order to Show Cause, 10 FCC Rcd 13141 (1995), proposing the reallocation of Channel 227C1 from Ada to Newcastle, Oklahoma, and the modification of Station KTLS's license to specify Newcastle as its community of license. To accommodate the allotment at Newcastle, an Order to Show Cause was issued to the licensee of Station KIMY, Watonga, Oklahoma, as to why its license should not be modified to specify Channel 230A instead of its present Channel 228A. Comments were filed by the petitioner, Diamond Broadcasting, Inc. ("Diamond"), and by Vera L. Dunn ("Dunn"). Reply comments were filed by the petitioner and Diamond.

2. As stated in the Notice, the allotment of Channel 227C1 at Newcastle could provide the community with its first local aural service. Neither Ada nor Newcastle are located within an Urbanized Area. No question was raised in either the Notice or in responsive comments as to whether Newcastle is a community for allotment purposes. As set forth in the Notice, Newcastle, population 4,214 persons, is an incorporated city with a mayor-city council form of government. The local government provides the community with such municipal services as police and fire protection, water, sewer and garbage pickup. Newcastle, in addition to local commercial businesses, also has its own schools and churches as well as its own weekly newspaper. However, the allotment at Newcastle would allow Station KTLS to provide a 70 dBu signal over at least 50% of the Oklahoma City Urbanized Area. Therefore, petitioner was requested to provide the same showing as currently required for those parties seeking to move to a community within an Urbanized Area to determine whether Newcastle warrants a first local service preference. See Headland, Alabama, and Chattahoochee, Florida ("Chattahoochee"), 10

¹ At the time the Notice was issued, petitioner was the proposed assignee of Station KTLS. The assignment of license from Oklahoma Broadcasting Company to the petitioner was consummated on September 29, 1995.

FCC Rcd 10342 (1995).² As set forth in RKO General (KFRC) ("KFRC"), 5 FCC Rcd 3222 (1990) and Faye and Richard Tuck ("Tuck"), 3 FCC Rcd 5374 (1988), three criteria are considered in making a first local service preference determination. They are: (1) signal population coverage, that is, the degree to which the station would provide coverage not only to the suburban community but to the adjacent metropolis as well; (2) the size and proximity of the suburban community relative to the adjacent city; and (3) the interdependence of the suburban community with the central city.

3. In support of its request, petitioner states that the proposed change of community complies with the requirements set forth in Section 1.420(i) of the Commission's rules. The allotment of Channel 227C1 at Newcastle is mutually exclusive with the channel's allotment at Ada, and Ada will not be deprived of its sole local aural service since an AM and an FM station (KADA(AM) and KADA-FM) will remain licensed to the community. It also states that under the criteria set forth in KFRC and Tuck, it is clear that Newcastle warrants a first local service preference. Petitioner does not dispute the fact that Station KTLS would provide a 70 dBu signal to almost all of the Oklahoma City Urbanized Area, that Newcastle has a substantially smaller population than that of Oklahoma City (4,214 persons vs. 444,719 persons). However, it argues that Newcastle is clearly a separate and independent community and not a "bedroom" suburb of Oklahoma City. Using the KFRC and Tuck factors, the petitioner provides the following information.

(a) The extent to which community residents work in the larger metropolitan area, rather than the specified community. Petitioner states that Newcastle is home to hundreds of local businesses, restaurants, shopping centers and professional offices, many of which include "Newcastle" in their title. For example, there is the Newcastle Motel, Newcastle Antiques, Newcastle Tire and Brake Center, Newcastle Auto Sales, Newcastle Drug Co., Newcastle Flower and Gifts, Friendly Newcastle Hardware, and the Newcastle Hardware Center. Thus, it submits that the residents do not commute to businesses located in Oklahoma City but rather that Newcastle has its own employment base which attracts workers from the area.

(b) Whether the smaller community has its own newspaper or other media that cover the community's local needs and interests. Newcastle has its own weekly newspaper, the Newcastle Pacer. The Newcastle Pacer also publishes the Early Bird Express, which petitioner states is distributed free to more than 8,500 homes in Newcastle and the surrounding communities. Petitioner goes on to state that the nearby communities of Tuttle and Blanchard rely on the Newcastle Express and Early Bird Express for coverage of local news.

² Petitioner contends that we erred in imposing this new requirement without what it states was proper notice and an opportunity for the public to comment, citing Reeder v. FCC, 865 F. 2d 1298 (D.C. Cir. 1989). Therefore, petitioner states that it preserves the right to raise the issue of legality in any subsequent forum or proceeding. We believe that this issue is not properly before the Commission in this proceeding. Rather, objections to this requirement should have been raised in a petition for reconsideration directed to the Chattahoochee decision. However, no reconsideration of that decision was requested by either the petitioner in this proceeding or by any other party.

(c) Whether community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area. The petitioner provides letters from Newcastle's City Manager, Mayor and Executive Secretary of the Newcastle Chamber of Commerce, as well as from other residents of Newcastle, stating that Newcastle is a separate community from the metropolitan area.

(d) Whether the specified community has its own local government and elected officials. Newcastle is an incorporated city with a Mayor-City Council form of government. The five Council members are elected to four year terms, and the Mayor is elected by a majority vote of the City Council. The City Council also appoints the City Manager.

(e) Whether the smaller community has its own telephone book provided by the local telephone company or zip code. The telephone listings for Newcastle are published by the Pioneer Telephone Cooperative, Inc. and Southwestern Information Publishing. While telephone listings for other communities are included in the same telephone book, the listings for Newcastle are separate from the other communities, and Oklahoma City is not a part of the telephone book. Newcastle also has its own post office and zip code, separate from that of Oklahoma City.

(f) Whether the community has its own commercial establishments, health facilities, and transportation systems. Newcastle has its own businesses, many of which include Newcastle in their name, religious organizations, civic organizations and shopping centers. Medical facilities include two clinics, chiropractors, vision-eyeglass centers, a dentist and a home health care service for elderly and indigent patients. The community is home to the Newcastle Dental Clinic and Newcastle Animal Hospital.

(g) The extent to which the specified community and the central city are part of the same advertising market. Newcastle is included in the Oklahoma City Metro Market by Arbitron. However, petitioner states that because of the wide variety of local businesses, the community constitutes its own niche advertising market. It submits that the existence of its own weekly newspaper is evidence of this fact.

(h) The extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools and libraries. Newcastle has its own fulltime police department, volunteer fire department, Public Works Authority which includes street construction and maintenance, water and sewer systems, Vehicle Maintenance, Community Development Department, Parks and Recreation Board, Planning Commission, Board of Adjustment, Municipal Judge, Municipal Court and City Attorney. Newcastle has mutual aid agreements with surrounding communities, including Oklahoma City, and has been called upon to provide assistance to these communities from time to time. In addition, Newcastle has its own public school system which provides primary education for grades kindergarten through high school. The Pioneer Library System operates a full service branch in Newcastle in facilities provided by the community.

4. Dunn does not per se oppose the reallocation of Channel 227C1 to Newcastle or the substitution of channels at Watonga. She states that she and the petitioner have discussed various

reimbursement figures since mid-July, 1995. However, they have not been able to agree on a dollar amount. While Dunn recognizes that reimbursement for reasonable costs associated with the change of channel is a condition to the modification of Station KIMY's license, she is concerned that without prior agreement she may be forced to expend monies in connection with the change of channel for her station and then seek reimbursement through litigation. Therefore, she requests that the Commission require the parties to reach agreement on the reimbursement amount prior to the modification of Station KIMY's license.

5. Diamond, licensee of Stations KOMA(AM), KOMA-FM and KR XO(FM), Oklahoma City, Oklahoma, opposes the reallocation of Channel 227C1 from Ada to Newcastle. It argues that Newcastle should not be awarded a first local service preference. It states that Newcastle, located approximately 60 miles west northwest of Ada and 15 miles south of Oklahoma City, is contiguous to the Urbanized Area and within the Oklahoma City Metropolitan Statistical Area ("MSA"). Further, Diamond points out that the population of Newcastle is 0.9% that of Oklahoma City (4,214 vs. 444,719 persons). It states that it knows of no case in which the Commission has permitted a reallocation where there is such a disproportionate population, citing Eaton and Sandy Springs, Georgia, et al., 6 FCC Rcd 6580 (1991), recon. pending and Chattahoochee, supra. Diamond also argues that a Class C1 station, such as KTLS, is intended to provide regional coverage, not just local service, pointing out that with maximum facilities, the station could provide a 1 mV/m service within a 72 kilometer contour. Further, it submits that noncommercial educational Station KMSI(FM), Moore, Oklahoma, should be considered as a Newcastle local service because its studios and offices are located in Newcastle and a booklet compiled by a local realtor makes reference to the station as a local Newcastle station. Thus, it argues that petitioner's claim that Station KTLS would provide Newcastle with its first local aural service would raise form over substance to "new heights."

6. Diamond acknowledges that there is evidence that Newcastle has a level of independence from Oklahoma City based on the fact that the community has its own city government, weekly newspaper, schools, fire and police protection, and water and sewer services. However, it argues that the proximity to Oklahoma City coupled with Newcastle's limited number of businesses, no major public hospital, telephone directory or public transportation system creates a presumption of interdependence with Oklahoma City. In support, it cites RKO General, Inc., 5 FCC Rcd 3222 (1990), where the Commission denied Richmond, with a population of 74,676 persons and located sixteen miles from San Francisco, a first local service preference. It argues that Richmond has all of the community status indicia that Newcastle has, only in greater abundance. Diamond also submits that the fact that the reallocation would result in a net gain of 677,574 persons is not dispositive because this only demonstrates that petitioner seeks to move from a rural community to one which is contiguous to the Urbanized Area. Finally, it states that, absent a first local service preference, there is no public interest justification in providing Newcastle and Oklahoma City with a twenty-fifth aural service. Rather, the result would be to encourage the migration of stations from rural communities to urban areas which would be inconsistent with the public interest.

7. In reply, petitioner disputes Diamond's arguments that Newcastle does not warrant a first local service preference. It contends that Diamond has overlooked Commission precedent

and ignored the evidence which overwhelmingly shows that Newcastle is a separate community independent of Oklahoma City. In determining whether a community should be granted a first local service preference or be credited with all of the services licensed to an Urbanized Area, petitioner reiterates that the Commission examines (1) the population coverage to both communities, (2) the relative size of both communities, and (3) the interdependence of the two communities. Further, petitioner states that the Commission has found that while factors (1) and (2) may weigh in favor of not granting a first local service preference, these factors are 'pertinent but less significant' than the evidence shown under factor (3) concerning interdependence, citing Bay St. Louis and Poplarville, MS, 10 FCC Rcd 13144 (1995).

8. Petitioner states that Diamond has provided no supporting precedent for its argument that the population difference between Newcastle and Oklahoma City is so large as to deny Newcastle independent status. It goes on to state that the Commission has granted change of community proposals where the difference in population has been between 3% and 5%, citing Bay St. Louis and Poplarville, MS, supra, (population difference of 4.48%), Scotland Neck and Pinetops, NC, 7 FCC Rcd 5113 (1992) (population difference of 3.08%), and D'Iberville and Wiggins, MS, 10 FCC Rcd 10796 (1995) (population difference of 3.66%). Thus, it argues that even where the difference in population between the proposed community of license and the central city is relatively large, the Commission has awarded a first local service preference.

9. Petitioner states that Diamond also has incorrectly claimed that Newcastle is located contiguous to the Oklahoma City Urbanized Area. Rather, it states that the Newcastle city limits fall short of the boundaries of the Oklahoma City Urbanized Area, and, in fact, the two are separated by the South Canadian River. Petitioner goes on to point out that the fact that a natural body of water lies between the new community and the central city was a factor in D'Iberville and Wiggins, MS, supra. It also disputes the Commission's finding that Station KTLS would provide a 70 dBu signal to 95% of the Oklahoma City Urbanized Area, stating instead that it would cover only 85% of the Urbanized Area.

10. Petitioner contends that the information provided by Diamond in its comments gives additional support to a finding that Newcastle is a separate and independent community. It points out that the promotional brochure which Diamond included with its comments describes the "tri-city" area of Newcastle-Blanchard-Tuttle as communities separate from Oklahoma City. The brochure goes on to state that Newcastle has its own government, public safety services, water and sewerage facilities, businesses, schools and employers. Further, petitioner claims that Diamond "disingenuously" claims that Newcastle has no major public hospital, telephone directory or public transportation system. Petitioner acknowledges that there is no hospital in Newcastle, but states that the community has two health clinics, a dentist, two chiropractors, two veterinarians, two vision/eyeglass centers and a home health care service for elderly and indigent patients. It also reiterates that Newcastle has its own telephone directory, which does not include Oklahoma City listings, published by the Pioneer Telephone Cooperative and Southwestern Publishing, Inc. Southwestern Bell, which publishes the telephone listings for Oklahoma City, does include Newcastle telephones, but they are listed in a separate section, not commingled with the Oklahoma City listings. Petitioner also states that Newcastle is served by a local transportation system. It provides a letter from the Transportation Director of the Delta

Community Action Foundation, Inc., stating that it provides a transportation service to residents of the McClain County Region, including Newcastle. This service includes regularly scheduled service for senior citizens centers for nutrition services, transportation to places of employment, transportation for the elderly and other persons who wish to use public transportation for social/recreational, medical, shopping and demand response.

11. Petitioner also disputes that noncommercial educational Station KMSI(FM) should be considered as a Newcastle local service. It points out that the station is licensed to Moore, not Newcastle, and that Diamond has not cited any case where the Commission has equated the location of a station's studio or office in a community with the station providing a "first local service" to that community.

12. Finally, petitioner states that Dunn did not respond to the Order to Show Cause with a proper showing as to why the license for Station KIMY should not be modified as proposed in this proceeding. It contends that the "Contingent Objection" which she filed is procedurally defective and should be stricken from the record. Petitioner states that because the objection was filed pro se, she was required by Section 1.52 of the Commission's rules to sign, verify and state her address, citing Latta, SC, et al., 10 FCC Rcd 7204, n.1 (1995), Flora and Kings, MS, et al., 7 FCC Rcd 5477, n.6 (1992), and Lake City, SC, 47 FCC 2d 1067 (1974). While the pleading does include the address of a Washington, D.C. law firm, the pleading was not signed by an attorney and Dunn did not verify that the information contained in the pleading was accurate and correct.

13. Petitioner requests, however, that if the Commission does consider her pleading, that it deny the relief requested. It states that a reimbursement agreement had been drafted in July, 1995, but was not signed by Dunn and that no further agreement has been reached. Petitioner goes on to state that while the Commission does require that a petitioner agree to reimburse a licensee for the costs associated with a proposed channel change, it does not require that the parties agree on a specific amount prior to the issuance of a decision or that the monies be pre-paid before the Commission will grant a rule making decision, citing Circleville, Ohio, 8 FCC 2d 159 (1967).

Discussion

14. Based on the record before us, we find that the public interest would be served by reallocating Channel 227C1 from Ada to Newcastle, as the community's first local aural transmission service. As indicated in the Notice, Newcastle is located outside the Oklahoma City Urbanized Area but Station KTLS's 70 dBu signal will cover more than 50% of the Urbanized Area. Therefore, we have used the criteria set forth in Tuck and KFRC, supra, as a guideline in determining whether to attribute the Oklahoma City transmission services to Newcastle. These criteria are--the degree to which the Newcastle station would provide coverage to Oklahoma City in addition to its community of license, the size and proximity of Newcastle relative to that of Oklahoma City, and the interdependence of Newcastle with Oklahoma City.

15. With respect to signal coverage, Station KTLS, as licensed at Ada, provides no service to Oklahoma City or the Urbanized Area but would, as a Newcastle licensee, provide coverage to 85%-95% of the Urbanized Area. The reallocation of Channel 227C1 to Newcastle would result in a population gain of 777,961 persons within an 11,888 square kilometer area with a loss in service to 100,387 persons within a 10,758 square kilometer area. Further, the majority of the loss area will continue to receive at least five fulltime services. However, 971 persons within a 338 square kilometer area will receive only four fulltime services and 389 persons within a 135 square kilometer area will receive only three such services. While we are concerned that the change of community will result in a loss of service by 100,387 persons, our concerns are lessened by the fact that approximately 99% will continue to receive at least five fulltime services and no area would be served by fewer than three such services. See Earle, Pocohantas, and Wilson, Arkansas, and Como and New Albany, Mississippi, 10 FCC Rcd 8270 (1995). As to size and proximity, Newcastle has a 1990 U.S. Census population of 4,214 persons and Oklahoma City has a population of 444,719 persons. Newcastle is located approximately 15 miles from Oklahoma City and is physically separated by the South Canadian River.

16. With respect to the third factor, interdependence, we conclude that Newcastle is sufficiently independent from Oklahoma City to warrant a first local service. We find that the preponderance of evidence provided supports a finding of independence from Oklahoma City. Newcastle is an incorporated community with its own elected officials. The government provides the residents with numerous services which include, but are not limited to, a fulltime police department, a public works authority which constructs and maintains streets and its own water and sewer system, a city attorney, and park and recreation services. In addition, Newcastle has its own public school system providing education for grades kindergarten through high school. Although the library is not operated by the city, the full-service branch is housed in facilities provided by Newcastle. Newcastle also has numerous businesses, religious organizations and civic organizations which identify themselves with the community. Although Arbitron includes Newcastle in the Oklahoma City Metro Market, the community supports its own local newspaper. The telephone numbers for Newcastle are listed in three separate books, each of which segregates the Newcastle listings from those of other communities. Newcastle does not have its own local hospital but does have its own medical practitioners and health facilities. Finally, petitioner has provided letters from Newcastle's City Manager, Mayor and Chamber of Commerce, as well as from other residents, attesting to the fact that they perceive the community as being separate from the larger metropolitan area.

17. Based on the above information, we find that factors one and two, that is, signal population coverage and the size and proximity of Newcastle to Oklahoma City, appear to favor attributing the Oklahoma City Urbanized Area stations to Newcastle. However, the third factor, the interdependence of Newcastle with the Urbanized Area, supports a finding of not attributing the Urbanized Area aural services to Newcastle. In this regard, the Commission in Tuck, supra, stated that the signal population coverage and size and proximity issues are pertinent but less significant than evidence of independence. Therefore, we conclude that Newcastle is sufficiently independent of the Oklahoma City Urbanized Area and will not attribute the community with the aural services licensed to the Urbanized Area.

18. We now must determine whether the proposal would result in a preferential arrangement of allotments pursuant to the Commission change of community procedures.³ In comparing the existing arrangement of allotments with that proposed, we find that the proposed reallocation would provide Newcastle with its first local transmission service, which triggers priority three. Diamond argues that noncommercial educational Station KMSI(FM), licensed to Moore, Oklahoma, should be considered as a Newcastle local station because its studio and offices are located in Newcastle. We disagree. The license issued by the Commission for Station KMSI(FM) specifies Moore as its community of license, and Diamond has not provided any precedent where the Commission has considered the location of a station's studio and offices to be determinative of its community of license, contrary to the community specified in its license. To retain Channel 227C1 at Ada would not provide such a first local transmission service, since the community would retain local transmission service from two stations, one AM and one FM. Therefore, Channel 227C1 at Ada would trigger only priority four. Therefore, we find that the reallocation of Channel 227C1 from Ada to Newcastle, Oklahoma, as the community's first local transmission service, would result in a preferential arrangement of allotments.

19. We now turn to the modification of Station KIMY's license to specify Channel 230A in lieu of Channel 228A at Watonga, Oklahoma. Dunn has not raised a substantial or material question of fact or demonstrated that Station KIMY would be harmed by the modification of its license to specify operation on the alternate Class A channel. Rather, she speculates as to whether she and petitioner will be able to reach an agreement on reimbursement for the reasonable costs associated with Station KIMY's change of channel and requests that we require the parties to reach such an agreement before modifying her station's license. However, we will not require that she and the petitioner reach agreement on the reimbursement amount prior to the modification of Station KIMY's license. We do not normally require that the parties reach agreement prior to the conclusion of the rule making proceeding. Pursuant to Commission policy, reimbursement of Station KIMY for the reasonable costs associated with its change of frequency is governed by Circleville, Ohio, 8 FCC 2d 159 (1968). We expect parties to negotiate in good faith, subject to Commission review in the event of disagreement. See Camas, Washington and Seaside, Oregon, 8 FCC Rcd 1796 (1993) and Neenah-Menasha, Rhinelander and Rudolph, Wisconsin, 8 FCC Rcd 3050 (1993). In addition, no station need take steps to change its frequency until it is assured that it will receive payment. See Churchville and Luray, Virginia, 5 FCC Rcd 1106 (1990), recon. denied, 6 FCC Rcd 1313 (1991).

Technical Summary

20. Channel 227C1 can be allotted to Newcastle in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.5 kilometers (4.7 miles) south to accommodate petitioner's desired transmitter site. Channel 230A can be allotted to Watonga in compliance with the Commission's minimum distance separation requirements at

³ See Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License R&Q"), 4 FCC Rcd 4870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) ("Community of License MO&Q").

Station KIMY's presently licensed transmitter site.⁴

21. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective January 13, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Ada, Oklahoma	244A
Newcastle, Oklahoma	227C1
Watonga, Oklahoma	230A

22. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Tyler Broadcasting Corporation for Station KTLS, Channel 227C1, IS MODIFIED to specify Newcastle, Oklahoma, in lieu of Ada, Oklahoma, as its community of license, subject to the following conditions:

- (a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

23. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the license of Vera L. Dunn for Station KIMY, Watonga, OK, IS MODIFIED to specify operation on Channel 230A, in lieu of Channel 228A, subject to the following conditions:

- (a) Nothing contained herein shall be construed as authorizing any change in Station KIMY's license, BLH-871224KB, except the channel as specified above. Any other changes, except those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).
- (b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with license BLH-871224KB, except for the channel as specified above and a license application (FCC

⁴ The coordinates for Channel 227C1 at Newcastle are 35-10-44 North Latitude and 97-36-03 West Longitude. The coordinates for Channel 230A at Watonga are 35-54-17; 98-23-09.

Form 302) is filed within 10 days of commencement of program tests.

24. IT IS FURTHER ORDERED, That the Secretary shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to the licensee of Station KIMY, as follows: Vera L. Dunn, 502 Santa Fe, Anthony, KS 67003.

25. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Tyler Broadcasting Corporation, licensee of Station KTLS, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and/or upgrade.

26. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

27. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau